

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

DAVID E. KATES,

Plaintiff,

v.

B. A. BLEDSOE, et al

Defendants.

No. 3:11-CV-391

(JUDGE CAPUTO)


(MAGISTRATE JUDGE SMYSER)

ORDER

NOW this 2nd day of April, 2012, upon review of Magistrate Judge Smyser's Report and Recommendation (Doc. 85) for plain error or manifest injustice, **IT IS HEREBY**

ORDERED that:

- (1) The Report and Recommendation (Doc. 85) is **ADOPTED**.
- (2) Defendants' Motion to Dismiss or, in the Alternative, for Summary Judgment (Doc. 46) is **DENIED**.
- (3) This case is **RECOMMITTED** to the Magistrate Judge.



A. Richard Caputo
United States District Judge